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BY THE HOUSE OF DELEGATES,

February 1*st*, 1878.

Reported from the Committee on the Judiciary, with instructions to print, and leave granted to the Committee to report thereon by bill or otherwise.

By order,

MILTON Y. KIDD,
Chief Clerk.

MEMORIAL

OF

CAMPBELL W. PINKNEY,

SUBMITTING

AMENDMENTS TO THE CONSTITUTION

OF MARYLAND.

ANNAPOLIS:
George Colton, Printer to the General Assembly.
1878.

MEMORIAL.

To the General Assembly of Maryland:

Your memorialist begs leave respectfully to submit to your consideration the following amendments to the Constitution of this State:

Section 48 relates to the formation of corporations under a general law to be passed by the Legislature. It is as follows:

"Corporations may be formed under general laws, but shall not be created by special Act, except for municipal purposes, and except in cases where no general laws exist providing for the creation of corporations of the same general character as the corporation proposed to be created, and any Act of incorporation passed in violation of this section shall be void. And, as soon as practicable after the adoption of this [amendment] to the Constitution, it shall be the duty of the Governor to appoint three persons, learned in the law, whose duty it shall be to prepare drafts of general laws providing for the creation of corporations in such cases as may be proper, and for all other cases where a general law can be made, and for revising and amending, so far as may be necessary or expedient, the general laws which may be in existence on the 1st day of June, 1867, providing for the creation of corporations and for other purposes; and such drafts of laws shall, by said Commissioners, be submitted to the General Assembly at its first meeting for its action thereon, and each of said Commissioners shall receive a compensation of five hundred dollars for his services as such Commissioner.

"All charters granted, or adopted, in pursuance of this section, and all charters heretofore granted and created, subject to repeal or modification, may be altered, from time to time, or be repealed; provided, nothing herein contained shall be construed to extend to banks or the incorporation thereof."

The amendment, which is respectfully submitted, is to strike out, "And except in cases, where no general laws ex-

ist, providing for the creation of corporations of the same general character as the corporation proposed to be created" —in other words, to provide that *all* corporations for the future shall be created under a general law.

The 54th Section, of Article 3, provides that :

"No county of this State shall contract any debt, or obligation, in the construction of any railroad, canal, or other work of internal improvement, nor give, or loan its credit to, or in aid of any association, or corporation, unless authorized by an Act of the General Assembly, which shall be published for two months before the next election for Members of the House of Delegates, in the newspapers published in such county, and shall also be approved by a majority of all the Members elected to each House of the General Assembly at its next Session, after said election."

It is respectfully submitted, that this section be amended, by striking out all after the words, "or corporation," and so take away from the counties the power to contract debts, or to loan their credit for works of internal improvement.

The 7th Section of Article 11, is in the Article relating to the City of Baltimore, and it is in these words :

"From and after the adoption of this Constitution, no debt (except as hereinafter excepted) shall be created by the Mayor and City Council of Baltimore, nor shall the credit of the Mayor and City Council of Baltimore be given or loaned to, or in aid of any individual, association or corporation ; nor shall the Mayor and City Council of Baltimore have the power to involve the City of Baltimore in the construction of works of internal improvement, nor in granting any aid thereto, which shall involve the faith and credit of the city, nor make any appropriation therefor, unless such debt or credit be authorized by an Act of the General Assembly of Maryland, and by an ordinance of the Mayor and City Council of Baltimore, submitted to the legal voters of the City of Baltimore, at such time and place as may be fixed by said ordinance, and approved by a majority of the votes cast at such time and place ; but the Mayor and City Council may, temporarily, borrow any amount of money to meet any deficiency in the City Treasury, or to provide for any emergency arising from the necessity of maintaining the police, or preserving the safety and sanitary condition of the city, and may make due and proper arrangements and agreements for the removal and extension, in whole or in part, of any and all debts and obligations created according to law, before the adoption of this Constitution."

It is respectfully submitted, that this section be also amended, by striking out the words: "Unless such debt or credit be authorized by an Act of the General Assembly of Maryland, and by an ordinance of the Mayor and City Council of Baltimore, submitted to the legal voters of the City of Baltimore, at such time and place as may be fixed by said ordinance, and approved by a majority of the votes cast at such time and place," and inserting after the word "but," which follows, "place;" the Mayor and City Council may create a debt for the purpose of removing the basin nuisance, or for widening or diverting Jones' Falls; provided, such debt be authorized by an Act of the General Assembly of Maryland, and by an ordinance of the Mayor and City Council of Balti, more, submitted to the legal voters of the City of Baltimore at such time and place as may be fixed by said ordinance, and approved by a majority of the votes cast at such time and place.

And your memorialist ventures to add a few reflections in support of the amendments intended to take from the counties and the City of Baltimore, the power to contract debts in aid of internal improvements, which are above respectfully submitted to your consideration.

The bitter experience of the evils of the State connecting itself with works of internal improvement had made so deep an impression on the people of this State, that by the Constitution 1851, the State was expressly prohibited from lending its credit in aid of any works of internal improvement, or making any appropriation therefor.

These restrictions were continued by the Constitutions of 1864 and 1867, with the exception that by the Constitution of 1867, the State was allowed to appropriate not more than $500,000, in aid of the construction of works of internal improvement in the Counties of St. Mary's, Charles and Calvert.

It is unnecessary to dwell upon the blessings which these wise provisions have conferred upon the people of this State during the speculative era we have just passed through. Every citizen who reflects must appreciate them. But it is a reflection which often fills the thoughtful with melancholy, that moral and political truths, unlike the truths of science, require constantly to be re-established against the sophisms of the day.

While the Constitution of 1867 continued the protection hich the Constitution of 1851 had given to the people,

against the mischief of the State engaging in works of internal improvement, it left open a door by which the State, through the sub-divisions of which it is composed, may again be invaded by the same malign policy, by which it had been reduced in 1844 to the verge of bankruptcy, and was only saved from the disgrace of repudiation by the heroic efforts of its citizens.

To close this door and erect new barriers for the protection of the citizens from taxation for the purpose of aiding such enterprises as do not fall within the proper province of government, as declared by the Constitutions of 1851, 1864 and 1867, is the object of the amendments to the 54th Section, of Article 3, and the 7th Section, of Article 11, which are respectfully submitted to your consideration.

Can it be feared, that in a country like this, private enterprise will not be adequate to every work of internal improvement, in which there is a reasonable hope of profitable investment; and if the work be not profitable, why should the people be oppressed with an additional burden of taxes to construct it? What right has a majority to compel the minority to subscribe, in the guise of taxation, to what, in the opinion of the minority, is an unprofitable enterprise?

Let it be remembered, too, that political economy teaches that taxes are not only paid by the rich out of their superfluity, but also by the poorest of the poor out of their penury, and that only the excess of earnings can be applied to new undertakings without impoverishment.

Now is the day of repentance and reform; presently a tidal wave of speculation will sweep anew over the country. Let then the counties and the city of Baltimore devote themselves to the proper objects of city and county government, and leave works of internal improvement to private enterprise.

Respectfully submitted by

CAMPBELL W. PINKNEY.

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